

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 18-111**—sHB 5332  
*Committee on Children*  
*Judiciary Committee*

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
DEPARTMENT OF CHILDREN AND FAMILIES**

**SUMMARY:** This act makes several changes in laws related to the Department of Children and Families (DCF). It requires the department to:

1. take certain steps to identify and address racial and ethnic disparities within child welfare practices (§§ 1-3),
2. provide records without the subject's consent to the chief state's attorney's office to investigate benefits fraud (§ 4),
3. develop guidelines for the care of high-risk newborns who are born with signs indicating prenatal substance exposure or fetal alcohol syndrome (§ 5), and
4. perform child abuse and neglect registry checks on a foster care provider seeking to renew his or her license or approval and anyone age 16 or older living in the home (§ 6).

The act also:

1. requires health care providers to notify DCF when a child is born with symptoms indicating prenatal substance exposure or fetal alcohol spectrum disorder, and include a copy of the newborn's safe care plan (§ 5);
2. eliminates a provision that permits the commissioner, when someone applies for, or seeks to renew, a license or approval to provide foster care, to run state and national criminal history record checks on anyone over age 16 who does not live in the applicant's house but who has regular unsupervised access to children in the home (§ 6);
3. establishes notice and hearing procedure that DCF may follow before imposing a fine for failure to comply with certain licensing requirements to care for, board, or place a child (§ 7); and
4. makes other minor and technical changes.

**EFFECTIVE DATE:** July 1, 2018, except the provision that makes changes to foster care criminal background and child abuse and neglect registry check requirements is effective upon passage.

**§§ 1-3 — ADDRESSING RACIAL AND ETHNIC DISPARITIES IN CHILD  
WELFARE PRACTICE**

The act requires DCF to take steps to address racial and ethnic disparities within child welfare practices by adopting strategies, establishing a data reporting

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system, working to eliminate those disparities, and annually reporting to the Children's Committee.

### *Strategies to Address Disparities*

Existing law requires DCF, with the assistance of the State Advisory Council on Children and Families and in consultation with certain other stakeholders, to develop and regularly update a strategic plan to meet the needs of children and families the department serves. The act requires the plan to include strategies DCF must use to identify racial and ethnic disparities within child welfare practices and work to eliminate those disparities. The strategies must be informed by data on referrals, abuse and neglect substantiations, removals, placements, and retention.

### *Commissioner's Responsibilities and Reporting Requirement*

The act requires the DCF commissioner to:

1. establish a standardized data reporting system to support collecting data on (a) the race and ethnicity of children and families referred to the department at key decision points, including referral, substantiation, removal, and placement, and (b) retention rates of children and families by race and ethnicity; and
2. work to eliminate disparities in referral rates, substantiations, placements, and retention among (a) racial and ethnic groups and (b) groups known to experience higher rates of adverse child welfare, health, and service outcomes because of religion, age, sex, sexual orientation, national origin, socioeconomic or immigration status, language, ancestry, intellectual or physical disability, mental health status, prior criminal convictions, homelessness, gender identity or expression, or geographic residential area.

The act also requires the commissioner, by February 15, 2019, to begin annually reporting to the Children's Committee data illustrating DCF service use by race and ethnicity, an assessment of usage trends, and recommendations for results-based accountability measures to ensure parity in access to such services.

### § 4 — DCF RECORDS DISCLOSURES

The act expands the existing list of circumstances under which DCF must disclose its records to the chief state's attorney's office without a subject's consent. Under the act, the department must make such disclosures for purposes of investigating or prosecuting alleged benefits fraud, provided no information identifying the subject of the record is disclosed unless the information is essential to the investigation or prosecution. Existing law additionally requires DCF to make such disclosures to the chief state's attorney's office in order to investigate or prosecute allegations (1) related to child abuse or neglect, (2) that an individual falsely reported suspected child abuse or neglect, or (3) that a mandated reporter failed to report child abuse or neglect.

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### § 5 — SAFE CARE OF SUBSTANCE EXPOSED NEWBORNS

By January 1, 2019, the act requires the DCF commissioner, in consultation with other departments, agencies, or entities concerned with the health and well-being of children, to develop guidelines for the safe care of newborns who exhibit (1) physical, neurological, or behavioral symptoms consistent with prenatal substance exposure; (2) associated withdrawal symptoms; or (3) fetal alcohol syndrome. The guidelines must include instructions to providers on the discharge planning process, including the creation of written plans of safe care, which must be developed between the providers and mothers of the newborns as part of that process.

Under the act, a provider involved in the delivery or care of a newborn who, in the provider's estimation, exhibits physical, neurological, or behavioral symptoms consistent with prenatal substance exposure, associated withdrawal symptoms, or fetal alcohol spectrum disorder must notify DCF of these conditions in the newborn. The notice must be made in a form and manner the commissioner prescribes and in addition to any applicable reporting requirements under the state's child welfare laws. Starting January 15, 2019, the notice must include a copy of the plan of safe care created pursuant to the above guidelines.

Under the act, providers include the following licensed health professionals: physicians, surgeons, homeopathic physicians, physician assistants, nurse-midwives, practical nurses, registered nurses, and advanced practice registered nurses.

### § 6 — CHILD ABUSE AND NEGLECT REGISTRY CHECK

Under existing law, before issuing a license or approval to provide foster care, DCF must run state and national criminal history and state child abuse registry records checks on the applicant and anyone living in the applicant's household who is age 16 or older. The foster care provider and anyone age 16 or older living in the household must again submit to a criminal history check at the time of license or approval renewal. For renewal purposes, the act requires DCF to once again check the child abuse and neglect registry for those individuals.

Additionally, the act eliminates provisions that permit the commissioner to (1) run criminal history and child abuse registry checks, when someone applies for a license or approval to provide foster care, on anyone over age 16 who does not live in the applicant's house but has regular unsupervised access to children in the home and (2) conduct criminal background checks on such individuals at the time of license or approval renewal.

### § 7 — LICENSE VIOLATIONS FOR CHILD CARE, BOARDING, AND PLACEMENT

By law, certain persons and entities must be licensed by DCF in order to care for or board a child, place a child in a foster or adoptive home, or bring or send a child into the state for placement or care in a home or institution. By law, violators of licensing requirements may be fined up to \$100. The act broadens the

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violators subject to the fine to include persons and entities, instead of persons and corporations as under prior law. Under the act, DCF may provide the violator with notice, which must include information about the violator's right to a hearing before DCF imposes such a penalty.

Additionally, the act authorizes DCF, on the advice of the attorney general and in the manner provided by law, to (1) investigate any reported violation of these licensing requirements and (2) in the state's name, seek an injunction or other civil process against any person or governmental unit to restrain or prevent them from caring for, boarding, or placing a child while in violation of those requirements.

### *Notice*

Under the act, if the commissioner has reason to believe that a person or entity has committed a violation of the licensing requirements punishable by a \$100 fine, she may notify the alleged violator by certified mail, return receipt requested, or by personal service. The notice must include a:

1. reference to the laws allegedly violated,
2. short and plain statement of the matter asserted or charged,
3. statement of the prescribed \$100 civil penalty for the violations, and
4. statement of the alleged violator's right to request a hearing and requirement that the request be submitted in writing to the commissioner within 30 days after the notice is mailed or given by personal service.

### *Hearing Requirement and Penalty Order*

Within 30 days after receiving a request for a hearing, the commissioner must hold one in accordance with the Uniform Administrative Procedure Act. The commissioner may order the \$100 civil penalty if (1) after holding the hearing, the commissioner finds that a violation of the licensing requirements occurred, or (2) the alleged violator does not request a hearing or requests one but does not appear at it. The commissioner must send a copy of any such order by certified mail, return receipt requested, to the person or entity named in the order.